

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

MARY LODGE,

Plaintiff,

Civil Action No. CV-05-0187

-against-

UNITED HOMES, LLC, UNITED PROPERTY
GROUP, LLC, YARON HERSHCO,
GALIT NETWORK, LLC, OLYMPIA MORTGAGE
CORP., BAYVIEW LOAN SERVICING, LLC,
BAYVIEW ASSET MANAGEMENT, LLC,
U.S. BANK, N.A. AS TRUSTEE FOR BAYVIEW
ASSET-BACKED SECURITIES TRUST SERIES
2007-30, BAYVIEW FINANCIAL, L.P., AND
BAYVIEW FINANCIAL MANAGEMENT CORP.

Defendants.

X

DECLARATION OF JEAN CONSTANTINE-DAVIS

I, Jean Constantine-Davis, co-counsel for the plaintiffs, declare that the following is an accurate description of my experience and an accurate account of the hours and costs incurred in litigating this case.

1. I became a member of the bar of the District of Columbia in December, 1978. I have been a practicing attorney in Washington, D.C. for all but five years from 1978 to the present.

2. I am admitted to practice before the United States District Court for the District of Columbia, the D.C. Circuit Court of Appeals, and the U.S. Supreme Court.

3. I am employed as a senior attorney with AARP Foundation Litigation where I specialize in litigation involving violations of state and federal laws governing mortgage lending.

4. I have been involved in the litigation of the six consolidated cases against United Homes and other defendants since February, 2005.

5. During much of that time, I was the attorney primarily responsible for the claims affecting the Bayview Defendants, including drafting portions of the Motion to Dismiss and for Summary Judgment affecting the claims of plaintiff Mary Lodge. I was also responsible for briefing the holder in due course portion of Ms. Lodge's Motion for a Preliminary Injunction to prevent the Bayview Defendants from foreclosing on the Lodge property during the pendency of this litigation.¹

6. The attached Invoice from Parkside Associates and my travel expenses to take the Bayview Rule 30(b)(6) deposition are true and accurate copies of costs incurred that were covered by the Court's May 5, 2011 Memorandum and Order.

7. The following is an accurate and contemporaneously created account of my hours spent pursuing discovery related to the ownership of the Lodge mortgage, responding to the motions to dismiss and for summary judgment on the holder in due course defense, and in assisting the plaintiff's Motion to Strike the Holder in Due Course Defense. I have recently segregated these hours out from my daily time log on the United Homes cases in order to provide the Bayview Defendants and the Court with the total time spent on the activities for which the Court found sanctions were awardable.

TIME RECORDS
JEAN CONSTANTINE-DAVIS

7/28/05	4	reviewed and abstracted documents produced by Wachovia/Bayview; conference call with co-counsel
3/13/06	1.5	assigned preliminary research on Wachovia=s HDC argument to law clerk; more work on HDC argument

¹ Time spent on that brief is not included in this Motion for fees because it was not included in the time periods outlined in the Court's Memorandum & Order of May 5, 2011(See ECF No. 585).

3/14/06	2.5	email discussion with co-counsel re: HDC issues; more research on HDC issue and initial drafting
3/17/06	.75	email and other discussion with co-counsel re: HDC and necessary party issues
3/24/06	.5	further Opposition edits; coordinated with NFS
3/28/06	3	draft of letter to T. Fierst re: Wachovia/Bayview discovery deficiencies
3/29/06	2.5	circulated draft of letter to T. Fierst; edits to Part IV of Opposition
4/11/06	2.5	further review of Wachovia discovery & letter to T. Fierst
4/12/06	2	same; circulated letter to co-counsel & sent to T. Fierst
4/24/06	.25	re-sent original email serving rogs and doc requests on T. Fierst
5/10/06	.5	email to T. Fierst re: failure to respond to our rogs served 3/7/06
5/24/06	1.5	sent and then exchanged multiple emails with T. Fierst to review 5/23/06 Order re: his clients= non-compliance.
5/31/06	.75	drafted letter re: Wachovia issues; received discovery 45 minutes before deadline.
6/5/06	1.25	reviewed Wachovia/Bayview production and noted deficiencies.
6/6/06	4	began letter to T. Fierst re: Wachovia deficiencies.
6/7/06	2.5	finished letters to T. Fierst re: deficiencies on Wachovia/Bayview.
6/19/06	3	work on Wachovia chart for motion to compel.
6/20/06	.25	exchanged voice and emails with Fierst re: meet and confer.
7/11/06	.5	Review of Wachovia/Bayview docs.
7/19/06	.25	Email to T. Fierst re: lack of additional promised responses
7/26/06	.5	Detailed work on docs produced; drafted timelines for Lodge. Reviewed draft Wachovia/Bayview subpoenas.
8/31/06	1	t/c with J. Drumwright re: Wachovia's request for extension; drafted letter to J. Matsumoto and emailed to co-counsel.

9/4/07	.25	conference call with co-counsel re: plans for 9.7.07 conference call with counsel & the Court & motions for sanctions.
9//6/06	1.75	Reviewed new docs and other docs produced during summer 2006; Finalized and PDFed chart for Wachovia.
9/11/06	1.5	Reviewed filings from Wachovia; began drafting reply.
9/12/06	1	Finished draft of reply on Wachovia
9/11/07	1.25	printed out other docs from Bayview; emailed electronically served docs to support staff to save and print; conference call with co-counsel; discussed Court=s most recent order, motion for sanctions.
4/7/08	.75	work on Bayview 30b6 notice.
10/16/08	4.75	Prep for Bayview 30b6; drafted subpoena to Fillmore Real Estate for missing BPO's.
10/17/08	2.5	More prep for Bayview depo.
10/20/08	1.25	reviewed docs just sent by Fierst; emails with Fierst re: depos.
10/21/08	.25	emails with T. Fierst re: depos;
10/27/08	3	Email to Tim Fierst re: Documents missing from production & other follow ups; review of some Wachovia docs for depo.
11/17/08	8.5	Prep for Wachovia depo; emails with T. Fierst
11/18/08	7.75	Prep for Wachovia depo; reviewed docs sent by T. Fierst
11/19/08	8	Travel to Coral Gables; prep for Wachovia depo.
11/20/08	6	Further prep for deposition; conducted deposition; settlement discussions with Wachovia defendants.
12/15/09	2	Reviewed and made notes on Wachovia MSJ; emails with co-counsel Re: analysis & steps forward; followed up on some case citations.
12/21/09	.5	Conference call with co-counsel re: Wachovia MSJ.
12/29/09	6.25	Began opposition to Wachovia MSJ
12/30/09	2.25	Further work on opposition to Wachovia MSJ.

1/4/10	4.5	Further work on opposition to Wachovia MSJ.
1/5/10	7.5	Read Silver depo transcript; compared to his Declaration; Questions to K. Byers;
1/6/09	7.75	Further work on Wachovia MSJ opposition
1/7/10	8	Work on opposition to Wachovia MSJ
1/8/09	7.5	Work on opp. to Wachovia MSJ
1/19/10	10.5	Work on opposition to Wachovia MSJ
1/20/10	8.5	Work on opposition to Wachovia MSJ
1/21/10	10	Work on opposition to Wachovia MSJ
1/22/10	12	Work on opposition to Wachovia MSJ
6/14/10	1.75	began review of Wachovia docs for trial
6/15/10	5.5	More work on selecting/highlighting Wachovia docs for trial.
12/13/10	.5	Edits to final in limine list; emails with Maggie & T. Fierst re: Proper R. 19 party for Lodge Complaint amendment.
12/18/10	3.5	Work on amended complaint in Lodge case; emails to T. Fierst; Emails to co-counsel re: exchange of JPTO materials for Jan. 10 date; emails and T/c with Meghan & Rachel re: amendment; t/c & emails with K. Byers re: termination of Bayview trust issues.
1/5/11	.5	Discussed ongoing questions re: ownership of Lodge mortgage & How to deal with them in JPTO.
1/7/11	1.5	Many calls and emails with co-counsel and T. Fierst re: JPTO, ownership of Lodge mortgage; reviewed draft letter to T. Fierst re: issues; discussed Bayview's objection to inclusion of Wells Fargo termination of 2003 trust documents
1/13/11	1	Edits to letters to court on discovery & re: amendments; emails to/ From T. Fierst; reviewed documents Wachovia produced re: Ownership of Lodge mortgage.
1/14/11	1	Emails with co-counsel and Mr. Fierst re: various issues raised in Letters to court, & explaining need for proof of ownership.

1/18/11	.25	Reviewed Bayview letter to J. Mann; reviewed agenda for meetings On 19 th & 20 th ; t/c to Rachel re: suggested changes.
1/20/11	1.5	Trial prep meeting with co-counsel at SBLS; prep for call with J. Mann re: Bayview discovery issues; call.
1/29/11	.25	Emails with T. Fierst re: production of ordered documents today. Circulated new documents to co-counsel & K. Byers.
1/30/11	3	Reviewed and took notes on new documents produced by Wachovia; Email to K. Byers & co-counsel with my thoughts; set up call for tomorrow.
1/31/11	4.25	Further document review; conference call with co-counsel & K. Byers; analysis of newly produced documents re: property values. Discussion of Sara's research on HDC issues.
2/1/11	2	Research on HDC issues; email to Tim re: outstanding issues; t/c to Maggie re: Tim's proposal to add a new witness to the JPTO.
2/2/11	1.5	Meet and confer emails to T. Fierst re: remaining discovery issues.
2/3/11	4.75	Reviewed Sara's draft letter; made edits and added section on Contradictory statements from Bayview/Wachovia re: ownership of Lodge Note. T/c with Maggie; conference call with Rachel & Sara; emails to Chris re: his approval of letter.
2/4/11	4.5	Editing of letter to MJ Mann re: discovery issues; work on timeline of Bayview statements, going back to Lodge TRO/foreclosure, etc. to Research Wachovia and Bayview's role; conference call with S. Manaugh & Chris Jensen re: letter; Sent Sara thoughts on additions to timeline and remaining questions.
2/5/11	1	Reviewed letter again. Email to Sara re: edits to timeline.
2/6/11	1	More work on letter/timeline.
2/7/11	1	Final edits to letter to MJ Mann; t/c to Kevin Byers
2/10/11	.5	Reviewed Bayview's letter to M.J. Mann; emails with co-counsel.
2/11/11	1.5	Conference call with co-counsel in preparation for call with MJ Mann this afternoon; emails to Sara with suggestions on argument; call with
2/12/11	1.25	Reviewed most recent notes produced by Bayview; notes on later

		Lodge valuations; emails to T. Fierst re: concerns on having Hodapp attend the Bermudez depositon.
2/14/11	1.75	T/c to Ms. Bermudez re: status of depo. Scheduling; gathered time for sanctions fee request; emails with T. Fierst, Sara & tc's with Rachel re: depo tomorrow; issue of Mr. Hodapp's attendance.
2/22/11	2	Discussion of motion for sanctions; debriefed on Bermudez depo; replied to Ms. Bermudez's emails re: further questions from T. Fierst. Research on hourly rates in 2 nd Cir.
2.23.11	2.25	Drafted letter to Court re: further complaint amendment and leave to file sanctions/sj motions; reviewed, edited & filed letter re: rescheduling.
2/24/11	2	Reviewed and edited draft of motion for sanctions.
2/25/11	2	Edits to letter to court re: complaint amendment; made amendments to Lodge Complaint; emailed counsel re: consent to Amendments; began edits to next draft of motion to strike.
2/27/11	2	Edits to motion to strike; sent Sara old discovery documents to include.
2/28/11	1.5	Final edits to letter to court re: amending Lodge; final edits to Lodge Complaint; email to counsel re: consent; internal meeting re: fees; recalculated attorneys fees & emailed T. Fierst.
3/1/11	1	Reviewed & edited motion to strike; R. 56.1 statement.
3/2/11	.5	Edits motion to strike. Emails to/from Tim re: attorney fee issue.
3/3/11	3.5	Drafted letter to M.J. Mann re: attorneys fees; emails with T. Fierst; t/c to T. Fierst; drafted Stipulation for Lodge 3 rd Amend. Complaint; circulated to other counsel for signature; filed attorneys fee letter.
3/8/11	1.5	many emails with T. Fierst re: briefing schedule on Motion to dismiss HDC defense; discussions with co-counsel re: Motion.
3/28/11	1.5	Reviewed & made notes on Bayview's Opposition.
3/29/11	.75	Reviewed & edited reply to opposition to excluding HDC defense.
3/30/11	.5	Reviewed& edited current draft of reply to opposition to HDC motion.

4/3/11 1 Drafted letter to J. Matsumoto re: newly designated Bayview Documents.

238.5 hours x \$500 = \$119,250 Total

The foregoing is true and correct to the best of my knowledge and belief.


Jean Constantine-Davis